

REMARKS

Claims 1, 3, 4, 6, 7, 10, 11, 28-31, 35-42, 45, 46, 48, 49, 51, 53, 55, 57, 59, and 61-64 are pending in this application. Claims 7, 11, 51, 53, 55, 57, 59, and 61 stand rejected. Applicant wishes to thank the Examiner for the indication of allowance of claims 1, 3, 4, 6, 10, 28-31, 35-42, 45, 46, 48, 49, and 62-64. By this Amendment, claims 7 and 11 have been amended. The amendments made to the claims do not alter the scope of these claims, nor have these amendments been made to define over the prior art. Rather, the amendments to the claims have been made for cosmetic reasons to improve the form thereof. In light of the amendments and remarks set forth below, Applicant respectfully submits that each of the pending claims is in immediate condition for allowance.

Claims 7 and 11 stand rejected 35 U.S.C. § 103(a) as being unpatentable over Applicant's admitted prior art in view of U.S. Patent No. 5,956,339 ("Harada") and further in view of U.S. Patent No. 6,678,244 ("Appanna"). Applicant respectfully traverses this rejection.

Among the limitations of independent claims 7 and 11 not present in the cited reference is a path control protocol is used to identify a candidate path that identifies a link on the candidate path that has a minimum remaining bandwidth at least equal to a predetermined value. This feature is not present in the cited references. As such, Applicant respectfully submits that claims 7 and 11 are allowable over the cited references.

Among the limitations of claims 51, 53, 55, 57, 59, and 61, not present in the cited references is that when it is not possible to set a relay path on which there exists no congestion portion, the data is relayed to a relay server near the congestion portion among relay servers that exist upstream from the congestion portion wherein the data is

stored and when the congestion has been relieved, the data is transferred to downstream from the congestion portion.

As explicitly recited in pending claims, when there is congestion, the data is relayed to a relay server near the congestion and, when the congestion has been relieved, the data is transferred downstream. This feature is not present in Appanna.

In Appanna, when there is congestion, a queuing element varies the rate at which data is transmitted and allows high priority packets directly through the communication path once the path is cleared. However, this is unlike the explicitly recited limitation of relaying the data to a relay server near the congestion and storing the data and, when the congestion is relieved, transmitting that data downstream. Thus, Applicant respectfully submits that claims 51, 53, 57, 59, and 61 are allowable over the combination of the admitted prior art, Harada and Appanna.

Applicant has responded to all of the rejections and objections recited in the Office Action. Reconsideration and a Notice of Allowance for all of the pending claims are therefore respectfully requested.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If the Examiner believes an interview would be of assistance, the Examiner is welcome to contact the undersigned at the number listed below.

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Respectfully submitted,

By

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